in defendants' exhibit 13 entitled "Interpretations, etc., are not even fair to the colored teaching personnel on their face as were the laws of Texas as pointed out in *Smith* v. *Texas, supra.* In making up these items, to refer to but two of them, the rating committee included: "college" and "cultural background." With the knowledge which this committee had it must have been perfectly apparent to them that to include any such items as grounds for comparative rating would be to work automatically to the detriment of the negroes.

For instance, let us take the item of -"college." Throughout the record defendants' witnesses testified that the negro colleges in their opinion and belief were inferior to the colleges attended by the whites. Therefore, by including such an item they knew that the negro would be penalized a certain number of points. Furthermore, may we not ask since when did the college attended by an individual become a proper criterion for the measurement of his teacher worth and effectiveness, especially a teacher who has been good enough to be continuously employed for from 10 to 30 years (p. 153).

Cultural Background

Now let us take the item of "cultural background": These white members of the Rating Committee throughout the record show that they had full knowledge that a comparison of place and manner of living and all of the things which go to make up "cultural gackground" favor the whites. Therefore, by including such an item in the basis of comparison they automatically penalized the negro a certain number of points at the very outset.

Principals Took No Part in Rating

To us one of the greatest elements of proof of discrimination lies in this fact which seems to have escaped both the District Court and the Circuit Court of Appeals: defendants' witness Pearson testified (p. 144) with reference to plaintiff's Exhibit No. 4, that he was

on the Rating Committee and quoted from that exhibit in part as follows:

> "The rating of teachers shall be a subjective and an objective rating by *principals,* (our emphasis) Supervisor of Personnel, Director of Instruction, etc."

Both the November 26, 1941, schedule and its amendment of April 29, 1942, contained the provisions cited by Mr. Pearson that principals were to take part in the rating of teachers. But principals took no part. The Superintendent testified that they were not intended as members of the rating commmittee and to prove this, the defendant Board adopted a resolution on February 24, 1943, thirteen days after the deposition of the Superintendent had been taken before a notary, stating that as "some question has been raised as to the personnel committee and in order to clear up any confusion and to set forth fully the action of the Board at the time the schedule was adopted it is desirable that the Board ratify, approve and confirm the appointment of the rating committee and also approve the ratings given by the rating committee." And then proceeded to name them individually, omitting the principals. (Defendants' Ex. 4, page 145.) The sole purpose of this, of course, is apparent. The schedules had named the principals and these same people by their official titles. This committee under the direction of the Superintendent had totally ignored the principals. As a matter of fact, the Board played no part in the whole proceeding except to do whatever told by the Superintendent.

Rating Committee All White

And, as the record shows, the rating of teachers and principals, both white and colored, was done by an all-white committee: (incidentally all former white class room teachers in Dade County) omitting as members of the rating committee not only colored representatives but the very persons who in the nature of things are

best qualified to judge teacher worth and effectiveness, namely: the principals themselves. Of this the Superintendent testified * * * "I think it would be within the authority of the Superintendent to clarify an issue of that type and I certainly feel that it is not the principal's function to serve on a rating committee. They are interested only in their own individual faculties. They do not have the complete picture of your county unit as a whole. They are comparing teachers of the school with teachers in their own faculty units and not possibly teachers in other faculties. It was never the intention that a principal should be a member of the rating committee" (p. 247).

A simple comparison of the results obtained after the adoption of the several schedules by the Board shows that the same substantial differential as existed under the last amended schedule (July 21, 1943) existed under that of Dec. 11, 1940, in which, more frankly, the Board separated the blacks from the whites, by color, and made this the sole reason for the lesser pay.

In order to make proper comparisons it is necessary to set each of the salary lists as shown in the official tabulation against the others. The first table, Appendix II annexed to this brief contains the salaries payable under the three schedules for the school year 1941-42, namely, the protested schedule, the schedule of November 26, 1941, and the last one under the amended schedule of April 29, 1942. From this table we find as follows:

Schedule of Dec. 11, 1940

Whites, minimum, $1020, maximum, $1800; colored, minimum, $724, colored, maximum, $1060.

The application of the above schedule to white and colored produces this result:

One year white, $1020; 1 year colored, $724; a difference of $296 between whites and colored. Two year white, $1020, 2 year colored, $724, a difference of $296.

Three year white, $1080, 3 year colored, $732, a difference of $348. Four year white, $1140, 4 year colored, $732, a difference of $408.

And this comparison carried throughout produces the same general result, except that in the later years of service the differential becomes greater.

Schedule of November 26, 1941

In this schedule "white" and "colored" were omitted and a schedule with three general classifications set up: "Good," "Very Good" and "Excellent." The record shows that there were no "excellent" teachers. The salaries provided for under this schedule were:

1. Good ..... Minimum $ 720—Maximum $1260
2. Very Good..Minimum 1260—Maximum 1800

Here we see the purpose to keep the "color" schedule differentials, the minimum fixed at $720 allowing the defendants to continue the colored teachers at the minimum of $724 while at the same time continuing the whites at $1020. The Superintendent explained how this was done:

> "So we just took the two salary schedules and set them up" (p. 243).

What two salary schedules? Simple enough! The colored salary schedule and the white salary schedule as they are seen in the protested "color" schedule (Plff's Ex. 2, June 23, 1943).

The salaries resulting from this schedule were exactly the same as under the protested schedule except that eight of the colored teachers were given a raise of salary (p. 245).

Then came the amended schedule adopted April 29, 1942, 71 days after the action was begun. In this one they added the Supervisor of Negro Education to the rating committee, although he is shown by the rec-

ord to have taken a leading part in such deliberations as they are alleged to have had previously. Also they divided the "Good" classification by adding "Fair," thus making the classifications "Fair," "Good," "Very Good" and "Excellent." Again no excellent teachers were found in the system.

Schedule of April 29, 1942

Reference to the salaries paid under this amended schedule shows the following: 1 year white $1020, 1 year colored $724, difference $296. 2 year white $1020, 2 year colored $724, difference $296. 3 year white $1080, 3 year colored $780, difference $300; 4 year white $1140, 4 year colored $840.

Under this schedule for the first time they began to credit the colored teachers with the annual increment.

As in the figures under the previous schedules we are faced with practically the same differentials year in and year out, but increasing with the years.

These ratings are of 4 year college degree teachers. There were non-degree teachers treated in the same way as degree teachers. They held only Normal College degrees. Beginning teachers were treated differently (p. 300-301).

We believe, however, that for the purpose of this brief "the policy of discrimination" charged by the petitioner can be illustrated with less confusion by sticking to the lines of comparison we are using.

So far we have cited only figures of first few years service of the 1941-42 school year. The table, Appendix II, annexed to this brief contains the salaries of both white and colored for all years of service for comparison in parallel columns, we think deadly.

If the reason for adding the new classification "Fair" to the April 29, 1942, schedule be asked, we think it plain, for it afforded a simple method of blocking the negroes from the possibility of reaching a higher salary than

$1080 by annual automatic increase of $60 unless by favor of the rating committee.

$1080 is but $20 more than the highest salary they had thought a negro college degree teacher was worth under the "color" schedule protested.

With the minimum salary of $1020, by the addition of $60, one annual increment, the white teacher could now reach the limit salary of the "Fair" classification ready to be advanced to the "Good" class, while the negro, starting at $724, couldn't reach that limit for 7 years. And couldn't get past it without the favor of the rating committee, the whites automatically going over it, as the table shows.

Appendix II shows that the white teachers in 1941-42 under all the schedules were paid salaries depending solely on their years of service.

Appendix III contains a table showing the salaries of all the degree teachers, both white and colored, who remained in service for 1943-44 with their salaries for the years 1942-43 and 1943-44.

This table demonstrates that there was no intention at any time to classify the white teacher other than by years of service for in every year the salaries of all in that year are the same.

Of course there were a few colored teachers given higher salaries. The rating committee was smart enough to do this but not smart enough to see that figures themselves show that they were treating the negroes by an entirely different system.

It may be well here to note the method by which the so-called rating committee reached the results shown in the tables.

Mr. Conroy, Supervisor of Negro Education, and apparently the one who knew more about the system, if not of the 1200 or more white teachers, testified that at the time of completing the ratings for the 1941-42

school year they had no formal written definitions which would indicate the "qualities meant by the various things" and "the only material we had was a list of teachers in existence in the office" and that after his return from a meeting of the Southern States Work Conference "we studied that for some time and we then began to formulate and write out certain forms that could be used in the rating of each and every individual." The purpose of this, he said, was to keep their minds from wandering off the track, etc. (pp. 286-7).

The paper he referred to is entitled "Interpretation of the personnel rating committee report by the rating committee (Deft's Ex. 13; Rec. p. 287).

We think this paper so illustrative that we have reprinted it as Appendix I-C annexed to this brief. It contains some 2000 or more words.

Speaking later of the work of the committee, Mr. Conroy attached great importance to this paper when he testified that "fatigue," if nothing else would cause a man's mind to vary in going through a process over and over again but "if you have this thing lying on the table you will then have almost invariable thinking and it was a group, not one particular one, and those things stick in your mind" (p. 352). A little incoherent for an educator.

Mr. Conroy was asked on cross examination if he meant to tell the court that every time they rated a teacher, some 1200 or more, they had to have reference to the definitions in this exhibit and he replied:

> A. I do mean to tell the court that and we did it with good, sound reasoning (p. 351).

Some people might believe that, but we venture to say that a negro teacher would not swallow it, nor would he believe that his white colleagues would or could give him a square deal, especially when he was not present.

We may suppose that having gone through this fatiguing process with "this thing lying on the table" the

committee felt great satisfaction that the results justified their belief that the differential of the protested unconstitutional schedule did not discriminate against the negroes.

It is not in the cards that any group of whites could rate a negro the equal of a white on his cultural background, no matter how great his education, no matter how efficient, no matter how charming his personality.

The first ratings under the April 29, 1942, schedule were the basis of the plea in the Answer filed May 12, 1942, that all teachers had been rated under that schedule impartially and without discrimination on account of race or color.

It is undeniable, as demonstrated by the figures, frozen facts, that having amended the schedules four times, and after having—as they claimed—rated and graded *all* teachers after every amendment, the white teachers are all found in the same relative position to each other, that is, advanced regularly according to years of service, all in each year of service at the same salary, just as under the unconstitutional schedule protested, while the colored teachers were nailed down to the same minimum as before, a pitiful few receiving increase of salary under some fanciful notion that they were being treated impartially by a committee of former white teachers.

When we consider that the rating form contained 20 odd points for rating, such as: "personality," "sense of humor" (p. 161) (Deft's Ex. 5), and that these were used four times, we get the figure of 80 times 1250 (there being that many white teachers) or more than 100,000 items upon which the white teachers were said to have been rated—with not a single change in their grade or classification taking place, except their progress to higher salary by years of service and in each year at the same salary. Absolutely incredible! This one fact alone, we believe sufficient to show that the schedules were "ingeniously" prepared (*Smith* v. *Texas, supra*) to give the superficial appearance of obeying the constitutional

mandates while actually ignoring them. Certainly it is as indicative of purposeful discrimination and prejudice as this Court found existed in *Norris v. Alabama* (294 U. S. 587, 79 L. Ed. 1094). In that case the public officials stated that "No one was 'automatically or systematically' excluded, or excluded on account of race or color; that he 'did not inquire as to color'; that was not discussed," while in our case all of the defendants' witnesses made direct statements which showed that their minds were prejudiced against the petitioners on grounds of race and color. R. P. Terry (p. 128):

> "I would regard it as a very strong indication that that 1940 schedule (schedule of Dec. 11, 1940) did substantiate justice between the two groups * * *"

I. T. Pearson (p. 135) speaking also of the unconstitutional "color schedule" of Dec. 11, 1940:

> "In the matter of measuring them as a group I should consider it was as fair and equitable as it could be. As individuals, no."

D. J. Conroy, Jr., Supervisor of Negro Education, speaking about the same schedule (p. 307):

> "No, sir. I think that that schedule was non-discriminatory."

We maintain that these members of the Rating Committee showed by our quoted statements, of which those given are only examples (the record is full of them) that they approached their duties with the thought that the unconstitutional schedule was fair and equitable; that the large differential in salaries, therefore, was fair and equitable and as it should be. To us it is ridiculous to think that out of such fixed opinions anything but discrimination could result. In the Norris case, *supra,* this Court said:

> "If, in the presence of such testimony as defendant adduced, the mere general assertions by officials of their performance of duty were to be accepted as an adequate justification for the complete exclusion of negroes from jury service, the constitutional pro-

vision—adopted with special reference to their protection — would be but a vain and illusory requirement."

We say that in the face of the showing that the comparative standing or the rating or grading of a single white teacher was not changed after all the alleged rating operations, the Courts below indulged in the "violent presumption" referred to in *Neal v. Delaware,* (103 U. S. 370, 26 Law Ed. 567). This was quoted in the Norris case, *supra,* by the Supreme Court in arriving at its conclusion that there had been discrimination.

In addition to the foregoing the record is full of inconsistencies and contradictions which should have shown to the Courts below "the way the wind blew" on this question of discrimination. The record is full of co-incidences which are simply too apt to have been the result of mere chance and which should have convinced the Court that the defendants were simply going through the motions of rating and grading to give a superficial appearance of compliance with constitutional mandates, while actually meaning to — and actually defeating them. All of these the Court either disregarded or simply overlooked. "The meaning of general attitude" spoken of by this Court in the Norris case seemed to have been entirely lost to them in arriving at their decision. We cite a few:

The *"Florida School Code," Chap.* 19355 (No. 360), *Acts of Florida,* 1939, Sec. 433, Sub-sec. 7 (f), imposed upon the Superintendent of Public Instruction the duty of preparing and recommending to the Board for adoption salary schedules furnishing incentive for improvement and efficient service. Yet nothing was done about it until Dec. 11, 1940 — that is the third month of the second year after the enactment of Florida School Code, when they adopted the "black and white" schedule, differentiating between the groups by race and color.

The Alston case, *supra,* was decided June 18, 1940. In March of 1941, Mr. Terry, a member of the defendant

Board went to a meeting at Tampa and undertook — of all things — a study of Public Instruction of the State of Virginia" (p. 113). When Mr. Terry spoke to these educators from Virginia, after the Alston case had decided that a schedule such as was then in use in the Dade County schools was unconstitutional, should we assume that his idea was to better the condition of the negroes? If we do assume this we would be dead wrong because the status of the negroes was never changed — they remained comparably in the same unfortunate situation as they were before. We say that the only proper assumption is that their idea was to perpetuate the then existing salary differential and yet appear to obey the constitutional mandates.

All of these witnesses, on direct examination, were glib and positive. Speaking of the important Rating Committee Mr. Terry stated that it was made up of (p. 126): Superintendent Wilson, Dr. I. T. Pearson, Dan J. Conroy, *myself* (our emphasis), Miss Kahl — while the record shows that the first rating (p. 144) was to be done by "Principals, Supervisor of Personnel, Director of Instruction, Assistant Director of Instruction and Superintendent." In the schedule there was no mention of any member of the Board — Terry or anyone else. Again (pp. 145-146) on February 24, 1943, after the case was in being for a year, the Board passed the resolution before referred to stating the names of the members of the Rating Committee and disavowing that it had ever been intended that principals should take part in the rating. (Defts. Ex. 4.) Could this disavowal have been because they were unable to show that principals had ever participated in ratings under that schedule. We say that the answer obviously is, yes.

On page 121, speaking of the abolishing of the color schedule of Dec. 11, 1940, Mr. Terry was asked if official action had been taken on it before Nov. 5, 1941., (the day after petitioners protested). Here is what he said:

"No, I don't think it was actually abolished then. The words were used, but it said it is to be abolished but it is continued in force. We went along there to please them by agreeing with them. (Our emphasis.)

Speaking about the resolution of Sept. 5, 1941, (Deft's Ex. No. 2) Mr. Terry was queried as to whether he knew that the Superintendent had applied certain tests directed to be given under that resolution:

A. You are talking about such tests as the Morrison Rating Scale?

Q. I don't know.

A. I don't think you do.

Q. I want to know what kind of test you expected to be applied under this resolution?

A. What we had in mind at that time was a test that is prepared by the National Education Association, which is a very comprehensive affair, *and I am quite certain that that was not followed.*

I think ....no written tests or so-called standardization tests were ever given pursuant to that resolution" (pp. 127-128).

We call attention to the statement of the Circuit Court of Appeals (p. 431) where it said:

"Under it the testimony is that the same tests, in the same room and at the same time were given the new teachers, both white and colored; and the old teachers were tested alike from time to time, until all were classified."

That is an inaccurate statement — there is nothing in the record to justify it. As a matter of fact it is contrary to the record. Terry, *supra,* and Pearson (p. 137).

"I have consistently given them to *beginning teachers* (our emphasis) since that time." "There were 47 teachers in this group — 30 white teachers and 17 negro teachers — "

Again to the same effect (pp. 139-140):

"Most of them were teachers without experience; some of them had taught one year."

The tests referred to by Mr. Pearson plainly had for their purpose confirmation of his opinion that as a group white were superior, there were no general tests of all teachers.

And then we have (p. 203) Pearson's statement that all rating and the establishing of qualifications were fixed by the Rating Committee and not by tests. According to Mr. Pearson a mere talk with a teacher in her class room would be sufficient on which to raise her salary.

Again, Supt. Wilson, speaking on pages 241, 242 and 243 seems to think that at one time they had given a test to all of the teachers. He was very indefinite and finally stated that he did not give the tests himself and was asked if there was a record of those tests and he thought there was. He was then asked to produce them. They were never produced. But on page 253 Mr. Wilson, on cross examination, said:

"With the exception of beginning teachers. We decided that it would be of benefit to give beginning teachers a standardized test along with other ratings."

"It was not deemed necessary to give experienced teachers that standardized test because we had records from other school systems and other objective information there that we could refer to and base a separate rating upon."

They even kept the teachers separate by color, as witness Wilson, page 224:

"Yes; we had a list of teachers, colored and white."

And it will observed that in the official tabulation whites and colored are in separate lists.

Superintendent of Schools, Wilson again on page 253, inadvertently no doubt, disclosed the real *modus operandi* of the defendants when, speaking of white teachers, he made this statement:

"I don't remember the exact ratings of individual teachers there. *I just recall we rated them as a group.*"

There, may it please the Court, from the mouth of the Superintendent himself — one of the defendants — comes the truth. He was speaking of the work of the Rating Committee which was to be done and was claimed to have been done, by individual rating. Now we have him admitting that they were not rated individually but were rated "as a group."

As an example of different methods of treatment as between white and colored throughout, we have the admission by Dan J. Conroy, Supervisor of Negro Education, that contracts were issued to the white people (p. 336) for the sake of the morale of the school system." But that contracts were not deemed necessary to be given to the colored teachers. The Florida School Code, *supra,* Section 423 (7) (g) made it obligatory to give contracts to all members of the instructional staff and forbade payment of any salary except when this provision had been observed.

The Circuit Court of Appeals (pp. 432-433) said:

"We are much impressed by a fact he (the district judge) did not mention. The amended salary schedule contains this provision: 'If any employee be dissatisfied with the rating received, an appeal may be made to the Board and the Board shall promptly

make available, at no expense to such employee, an examination under the supervision of the National Committee on Teacher Examinations. The result of the findings of the National Committee on Teacher Examinations shall be final and the said employee shall be increased or decreased in salary in accordance with such finding.' Not a single appeal to this disinterested arbiter has been taken."

We are amazed that this proposition of individuals being examined under the supervision of the National Committee on Teachers Examinations was given any weight by the Circuit Court of Appeals. There is no showing that this examination would be composed of the same requirements as was contained in the several schedules — the inference, from the record, is that it would not have been the same. Therefore the result of any such examination could not have been to rate or grade the teachers taking the examination upon the basis of possessing the same qualifications as was applied to all other teachers. By their actions, the Board put any teacher in the position of having to undergo trouble and study, to say nothing of loss of time, of taking any such examination because of their treatment of him; that, to us, alone, would constitute discrimination.

The Superintendent gave as the reason the principals should not serve on the rating committee that they would only be comparing teachers of their own faculty not having the complete picture of the county unit as a whole (p. 247). Could the National Education Association do better? How could an individual salary be fixed by an examination when salaries were all based on classifications in which all teachers of the whole Dade system were supposed to be rated comparatively?

We are very much concerned with the emphasized portion of the following extract from the opinion of the Circuit Court of Appeals:

"We much doubt whether a concrete, actual controversy is shown within the meaning of the dec-

laratory judgment statute, 28 U.S.C.A. 400; *or that any specific conduct is pointed out that could be enjoined.*"

That is, indeed, a strange observation. The allegation was that discrimination, because of race or color, was being practiced against the negro and the prayer was that that practice be enjoined. From the emphasized portion of the above quotation it would seem that the Court of Appeals might be in some doubt as to the force and efficiency of an injunctive order of a Federal Court, ordering the defendants to discontinue a custom, policy or usage of such discrimination. If the Circuit Court of Appeals is right and the entry of such an order would be of no effect—we, probably better "give the country back to the Indians." However, we have no doubts on such a score. If a Federal Court will enter an injunctive order, in broad general terms, enjoining and restraining the defendants from continuing a custom of discrimination against these petitioners we have no doubt whatever but that they will fall into line and comply with the order.

The Additional Defenses

Now a word concerning the "Additional Defenses" which were filed February 17, 1943, nearly a year after the defendants had solemnly declared in their answer, filed May 12, 1942, that it was their determined purpose to fairly rate all teachers and principals and fix their salaries on the basis of services and duties performed as well as their respective abilities and qualifications, and that in pursuance of that purpose they had adopted an amended schedule under which rating had been completed and that remuneration now paid and to be paid to teachers and principals is determined without discrimination as to race or color (pp. 15-16).

In these additional defenses, notwithstanding their protestations of impartiality and fairness in their answer, the defendants allege, that is, concede that the

whites are being paid more money than the blacks, giving as the reasons such economic factors as the greater cost to them of their education, greater cost of living and the law of supply and demand (pp. 42-52).

Almost as amazing to us as their suggestion in reference to the appeal provision of the schedule is the comment on these additional defenses by the Circuit Court of Appeals in which the court seems to attach no importance to these additional defenses.

The Circuit Court of Appeals says:

> "These defenses were not tried out. No evidence was offered to support them. The evidence is that no defenses were in fact made for any such reason; and that indeed there was an oversupply of white teachers."

It is true that the Superintendent testified that there was an oversupply of white teachers due to the delightful climate of Miami (pp. 207-209) but he could not tell of a single white teacher who had come to him seeking employment for any such reason (p. 273). Yet, in the face of the failure to prove this great supply of white teachers and the "additional defense" to the contrary, the Circuit Court in its opinion says: "Miami was overflooded with high grade white teachers attracted there by the climate."

That additional defense was that there was a dearth of competent white teachers and an oversupply of Negro teachers, and that the law of supply and demand, not discrimination as to race or color, resulted in the lower salaries to the negroes (p. 45).

What shall be said of litigants who plead one thing and endeavor to prove the opposite? Wherein lies the truth or good faith?

We are familiar with the rule that inconsistent defenses may be pleaded and that the pleader need not avail himself of, nor attempt to prove, any of such de-

fenses but may prove only those upon which he intends to rely. That is not the point; that is where the Circuit Court of Appeals—and the District Court—failed to use the usual common sense which all of us try to use in determining what lies within the brain of a witness—what prejudice, bias, or discriminatory thoughts are passing through his mind. These additional defenses plainly indicate to us that even before rating the defendants intended to have the result of that rating show a substantial differential in salaries in favor of the whites. We say, what sense would there be in working out complicated schedules and systems of ratings when uppermost in the minds of the defendants was the thought that the whites must be paid more than the blacks because it cost the whites more to live and because they had more invested in their education than did the blacks. It's true that no evidence was offered by the defendants to prove these things but the fact remains that despite the claim that they spent numerous hours "evolving" systems of grading and rating and after they were set up, of applying them. That the sole—or at least the paramount—thought in their minds was: the whites must be paid substantially more than the blacks. And, we insist that all of the "tireless work" done by these defendants was not to arrive at a fair, just, equitable and non-discriminatory method of rating of the teachers and principals, but to work out a scheme by which the same results in salary differential would be arrived at as existed when the unconstitutional "color schedule" was invalidated by the decision in the Alston case, *supra*. And that is exactly what happened.

We maintain that the record shows that at the time of the protest by the Colored Teachers Association on November 4, 1941, the defendants were pursuing a custom, policy and usage of discriminating as against the blacks and in favor of the whites, contrary to the Fourteenth Amendment; that after the last schedule amendment—

right up to the time of the trial itself—they were still pursuing the same course; that the result of their "painstaking efforts" was the perpetuation of the unconstitutional discrimination existing at the time of the protest. We submit that the District Court and the Circuit Court of Appeals both erred and that the decision of the Circuit Court of Appeals should be reversed.

Respectfully submitted,

ALONZO WILDER

CHARLES H. HYDE

EDWARD L. SEMPLE

Attorneys for Petitioner.

APPENDIX I A

DEFENDANT'S EXHIBIT 5

PERSONNEL RATING COMMITTEE REPORT

Name_____ Date_____

School_____ Assignment_____

	Fair	Good	Very Good	Excellent
I. EDUCATIONAL ATTAINMENT	1	2	3	4
A. College				
B. Professional Study	1	2	3	4
C. Thoroughness of Scholarship as evidenced by:				
1. Command and use of English	1	2	3	4
2. Letters, reports, and other written material	1	2	3	4

Grading Scale

3-6 Fair 11-14 Very Good
7-10 Good 15-16 Excellent

TOTAL _____

SECTION RATING _____

II. EXPERIENCE				
A. Record in Dade County				
1. Relationship with delegated authorities	1	2	3	4
2. Relationship to community	1	2	3	4
3. Relationship with other teachers	1	2	3	4
B. Record in other school systems	1	2	3	4
C. Experience in other fields	1	2	3	4

Grading Scale

3-7 Fair 13-18 Very Good
8-12 Good 19-20 Excellent

TOTAL _____

SECTION RATING _____

III. CULTURAL BACKGROUND				
A. Moral integrity as evidenced by:				
1. School relationships	2	4	6	8
2. Community relationships	2	4	6	8
B. Social responsibility as evidenced by:				
1. Participation in the development of teaching profession	2	4	6	8
2. Participating in community development	2	4	6	8
C. Personal development as evidenced by:				
1. Poise	1	2	3	4
2. Dress	1	2	3	4
3. Voice	1	2	3	4
4. Courtesy	1	2	3	4

III. CULTURAL BACKGROUND

A. Moral integrity as evidenced by:				
1. School relationships	2	4	6	8
2. Community relationships	2	4	6	8
B. Social responsibility as evidenced by:				
1. Participation in the development of teaching profession	2	4	6	8
2. Participating in community development	2	4	6	8
C. Personal development as evidenced by:				
1. Poise	1	2	3	4
2. Dress	1	2	3	4
3. Voice	1	2	3	4
4. Courtesy	1	2	3	4

Grading Scale

7-18 Fair 31-44 Very Good
19-30 Good 44-48 Excellent

TOTAL
SECTION RATING

IV. EFFECTIVENESS OF TEACHING

A. Rating by principal	1	2	3	4
B. Total evaluation of rating by committee	2	4	6	8

Grading Scale

3-5 Fair 9-11 Very Good
6-8 Good 12 Excellent

TOTAL
SECTION RATING

FINAL RATING OF COMMITTEE

I. Educational Attainment	1	2	3	4
II. Experience	1	2	3	4
III. Cultural Background	1	2	3	4
IV. Effectiveness of Teaching	2	4	6	8

Grading Scale

5-8 Fair 14-19 Very Good
9-13 Good 20 Excellent

TOTAL
FINAL RATING

Remarks from Committee: _____

_____

_____

_____

_____

_____

_____

_____

_____

COMMITTEE SIGNATURES:

_____ _____

_____ _____

_____ _____

_____ _____

APPENDIX I B

DEFENDANT'S EXHIBIT 12

PRINCIPAL'S REPORT OF TEACHER'S EFFICIENCY

Teacher's Name_____ _____ School

For Semester Ending_____ 19____

Total Number Years Teacher has served in Dade County Schools_____

From the very nature of employment, differences in training, personality, experience, and assigned duties, some teachers require much more assistance than others. All supervision should have the definite purpose of being helpful. Therefore, it should be friendly, sympathetic, and co-operative. *The purpose of this report is to preserve a record of the principal's supervision, as to its actuality, as well as to its results.* It is therefore expected that the principal will give frequent and thoughtful supervision to those who particularly need it. This is to be done, even if the more experienced teachers receive little or no specific supervision. It is the record of such efforts to help that is especially desired. Forgetting all previous ratings, please use as far as possible the practical application of the Normal Distribution Curve of five points as follows: Poor - 7%; Fair - 24%; Good - 38%; Very Good - 24%; Superior - 7%. Bear in mind, also, that teachers improve; otherwise, why pay for experience and training?

Dates and Duration of Class Inspection:

_____ _____

_____ _____

_____ _____

Copy delivered to teacher (only if rating is below Good)

Date_____ Signed_____ Principal

DETAILED RATING OF TEACHER

	POOR	FAIR	GOOD	VERY GOOD	SUPERIOR
1. General Appearance					
2. Health					
3. Voice					
4. Resourcefulness and Initiative					
5. Enthusiasm and Cheerfulness					
6. Tact					
7. Industry					
8. Promptness					
9. Daily Preparation					
10. Scholarship					
11. Professional Interest and Growth					
12. Ability to Help the Problem Child					
13. Interest in the School as a While					
14. Neatness of Room					
15. Cooperation and Loyalty					
16. Discipline					
17. Influence with Pupils					
18. Attentiveness and Interest of Class					
19. Ability to Inspire Pupils					
20. Attention to Individual Needs					
21. Ability to Develop Social Responsibility					
22. Gen. Usefulness in County School System					

APPENDIX I C

A. Defendant's Exhibit 5.
B. Defendant's Exhibit 12.
C. Interpretation by Personal Rating Committee.

DEFENDANT'S EXHIBIT NO. 13
INTERPRETATION OF THE PERSONNEL RATING COMMITTEE REPORT BY THE RATING COMMITTEE

I. EDUCATIONAL ATTAINMENT

A. College. In rating the college approximately one-half dozen outstanding colleges in the field of teacher-training were selected as a standard for the rating of "Excellent." These colleges were as follows:

Duke University, Columbia, Peabody, Colorado, Michigan and Chicago.

Approximately one-half dozen colleges of not such a national reputation as the above, but with outstanding equipment for teacher-training, were selected as a standard for the rating of "Very Good" colleges. These colleges were as follows:

Florida State College for Women, Tuskegee, Hampton, University of Miami, Southern, University of Florida.

Approximately one-half dozen colleges which were accredited by various regional accreditation agencies but not as well equipped for teacher-training as the above group were selected as a standard for a "Good" college. These colleges were as follows:

Florida A. & M., Stetson, Rollins and Clark.

All colleges which are not accredited by a national accreditation agency were rated as "Fair."

B. Professional Study. Professional study was interpreted to mean attendance at summer school, education, travel, participation in a work shop, or in extension or correspondence work from recognized colleges.

The divisions of fair, good, very good and excellent were based on the frequency of above professional study and the amount of credit earned.

C. Thoroughness of scholarship as evidenced by:

1. Command and use of English, was interpreted to mean the ability of the teacher to talk on the level of the audience, to express ideas and thoughts effectively, possession of a broad vocabulary

classroom and e

2. Letters, re
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II. EXPERIENCE

A. Record in D

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2. Relationshi
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fair rating was g
part in any of th

broad vocabulary and knowledge in general as applied in the classroom and everyday conversation.

2. Letters, reports, and other written material, was interpreted to mean accuracy of reports, ability to compose a good letter, neatness and correctness of written material on file in the administration offices and as exhibited in the classrooms.

In the divisions of fair, good, very good and excellent of scholarship, a good rating was given on the average teacher's command and use of good English, and the ability to complete reports and other written material. A very good rating was given to the superior teacher's ability in these fields, and an excellent rating was given to the teacher of unusual ability, while a fair rating was given to the teacher below average.

II. EXPERIENCE

A. Record in Dade County:

1. Relationship with delegated authorities was interpreted to mean relationship between teacher and principal, or relationship between dean and head of department, or relationship between teacher and advisor, or relationship between teacher and superintendent or between teacher and trustees, or relationship between teacher and Board members. The teacher whose relationship with delegated authorities were in most respects above the normal were given a rating of good. One who was not only willing to respond to authority but also went out of their way to cooperate with the supervisors were given a rating of very good and an excellent rating was given to those who were outstanding in this respect. A fair rating was given to those who did not carry out instructions or who resented authority.

2. Relationship to the Community was interpreted to mean the attitude of the teacher to community interests, participation in P.T.A. work, friendly relationship with patrons, visiting the homes of their children and relationship with their neighbors.

The divisions of fair, good, very good and excellent were arrived at by assigning a good rating to the average or normal teacher; a very good rating to the teacher who actively participated in these activities; an excellent rating to the outstanding or unusual accomplishments in this respect, while a fair rating was given to the teacher who took very little if any part in any of these activities.

3. Relationship with other teachers was interpreted to mean an ethical attitude toward other members of the profession getting along with their fellow teachers, cooperating with their fellow workers in school activities and the degree of respect given teachers by other teachers.

The division of fair, good, very good and excellent were arrived at by rating a normal teacher as good. A teacher who was liked by fellow workers and cooperated in all school activities was rated as very good, while a teacher who was highly respected, very active in all school activities and exerted a marked degree of leadership in the school faculty was given a rating of excellent, while a teacher below the normal relationship was given a rating of fair.

B. Record in other school systems was interpreted to mean the recommendations received from former employers and the reputation of the school system.

The divisions of fair, good and excellent were arrived at by giving a rating of good to the teachers with experience in an average school system, who received good recommendations from their employers. Very good rating was given to the teacher who received a superior recommendation and came from an outstanding school system within recent years. While an excellent rating was given to the teacher with excellent recommendations from a superior school system of more or less national reputation and who held a position of prominence in this school organization. The fair rating was given if the teacher had had experience in a very small school organization of minor importance, but with satisfactory recommendations from her employer. If a teacher did not have any experience in other school systems than Dade County he or she was given no rating on this item. In as much as tenure of office of white teachers far exceeds that of the colored teachers, this if anything militated against the white teachers.

C. Experience in other fields was interpreted to mean the doing of work in other fields that would improve the individual teacher's ability, such as working in a book store during summer vacations, counselor in camp, doing recreation work, etc.

The divisions of fair, good, very good and excellent were arrived at by rating the teachers on the amount and kind of work done. If a teacher had no experience in other fields, he or she was given no rating in this item.